

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

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JUN 20 1994

In the Matter of)
)
Implementation of Sections 3(h))
and 332 of the Communications Act)
)
Regulatory Treatment of Mobile Services)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
GN Docket No. 93-252

COMMENTS
OF
CONSTELLATION COMMUNICATIONS, INC.

Constellation Communications, Inc. ("Constellation"), by Counsel, hereby responds to the Commission's Further Notice of Proposed Rule Making, FCC 94-100, released May 20, 1994, ("Further Notice"), in the above-captioned proceeding.

Constellation is one of the five companies that filed an application to construct a low-Earth orbit ("LEO") satellite system in the 1610-1626.5 and 2483.5-2500 MHz bands prior to the June 3, 1991 cut-off date. This system is to provide mobile-satellite service ("MSS") and radiodetermination-satellite service ("RDSS").¹

The Further Notice requests comment on whether a spectrum cap should be established by the Commission that encompasses all Commercial Mobile Radio Service ("CMRS") providers. With regard to satellite services, the Commission seeks comments

¹ See Application File Nos. 17-DSS-P-91(48) and CSS-91-013. These applications were accepted for filing by the Commission by Public Notice, Report No. DS-1134, released October 24, 1991. Constellation also filed a Petition for Rule Making to establish service rules governing non-geostationary satellites in these bands which was assigned File No. RM-7771 in Public Notice No. 14747, released September 13, 1991.

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"on whether any or all satellites licensees offering CMRS services should be included in a CMRS spectrum cap."² Furthermore, the Commission seeks comment as to "whether a spectrum cap may be properly applied to the space segment itself or should only be applied to the earth station licensee."³ Finally the Commission seeks comments on how to measure satellite spectrum for purposes of the cap and whether the cap should be implemented only after the completion of international coordination.

As a general matter, Constellation believes that the application of a spectrum cap to the MSS, such as the system proposed by Constellation, is a bad idea at this time. This is for several reasons. First, the MSS service is generally designed to serve areas that have no alternative means of obtaining mobile telephony. CMRS providers of MSS will complement rather than compete with terrestrial CMRS providers. It is therefore hard to see how a CMRS operator providing MSS could be grouped in the same market as other CMRS services with regard to the space segment.⁴

Second, it would be exceedingly difficult to design a spectrum cap for MSS because of the dynamic nature of spectrum assignment policies contemplated for the 1.6/2.4 GHz bands. Specifically, some applicants are likely to be assigned spectrum on an exclusive basis while others will share spectrum.⁵ How much spectrum to include under a

² See Further Notice at para 97.

³ Id.

⁴ Constellation, as well as the other pending applicants to construct and operate MSS systems in the 1.6/2.4 GHz bands have opined that the provision of service should not be classified as CMRS.

⁵ See Notice of Proposed Rule Making, FCC 94-11 released February 18, 1994 in CC Docket No. 92-166.

cap would be difficult under these policies.⁶ Additionally, even after the Commission issues licenses for systems in the 1.6/2.4 GHz bands, their operations could be curtailed as a result of the international coordination process. This is an on-going process that could result in changes in system parameters immediately, subsequent to licensing, or many years thereafter. This is a very different situation than presented by terrestrial mobile systems who normally only need to coordinate at border areas. These factors makes the application of a spectrum cap to MSS impractical to enforce.

Finally, the Commission is currently engaged in several complex proceedings to maximize access to the limited spectrum allocations available to MSS systems. Any limitation on any applicant's access to spectrum for reasons outside the context of these proceedings, such as those on-going in CC Docket No. 92-166, would be inappropriate. The Commission should not use its policies for CMRS operators as a basis for determining spectrum assignments for MSS systems operating in the 1.6/2.4 GHz or other MSS bands. Rather, the Commission should defer any consideration of spectrum caps to specific

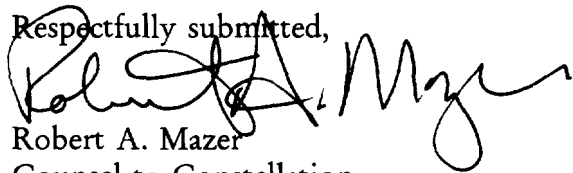
⁶

It also would need to be determined which type of frequencies would be included. MSS systems operating in the 1.6/2.4 MHz bands require communication service links as well as feeder links. Constellation believes it would be inappropriate to include feeder links in any spectrum cap. This is because the amount of feeder link spectrum is proportional to the number of satellite spot beams, and a cap on feeder link spectrum would only inhibit the development of high capacity, spectrum efficient MSS satellites to the detriment of the public. With respect to MSS earth station licensees, even though they may be regulated as CMRS, the application of a spectrum cap on them is not appropriate. Specific spectrum is not normally assigned to MSS earth stations. Instead, they typically access the spectrum assigned to the MSS space segment on a dynamic, call-by-call basis, and the amount of spectrum used by the earth station depends on the instantaneous amount of traffic routed through the earth station. A spectrum cap has little practical meaning for such types of operation.

licensing decisions made in the relevant rule making docket, such as CC Docket No. 92-166.

For the foregoing reasons, Constellation believes it would be inappropriate to impose a spectrum cap on mobile satellite services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mazer", written over the typed name.

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June 20, 1994

CERTIFICATE OF SERVICE

I, Robert A. Mazer, hereby certify that a copy of the foregoing document was served by first-class mail, postage prepaid, this 20th day of June, 1994 on the following persons:

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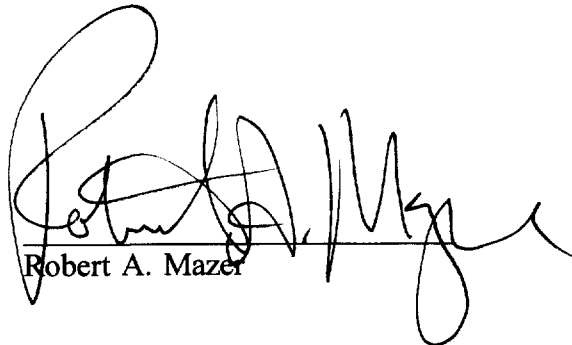
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